

FRANK CASE GOES TO OTHER JUDGES

Attorneys Will
Exhaust

Every Effort to Get
Hear-

ing Before Full
Bench of
Supreme Court.

By John Corrigan, Jr.

Washington, November 23.—(Special.)—Associate Justice Joseph R. Lamar denied this afternoon the Application of Leo M. Frank's lawyers for a writ of error which would bring this murder Case before the Supreme Court and stay the execution of the death penalty. Frank was convicted of the murder of Mary Phagan in Atlanta in 1913.

Unless some other Justice should take a different view and grant the writ, the Case is ended so far as the Supreme Court is concerned.

Frank's lawyers are preparing an Appeal to each of the other members of the Court in succession. For this reason, they have declined to make public the Memorandum prepared by Justice Lamar in denying the Application for the writ.

Harry A. Alexander and Henry C. Peeples, the Atlanta lawyers, are still here and will begin tomorrow to lay the Case before other individual members of the Supreme Court.

This they have a perfect right to do, and if any single justice should decide to grant the writ the Case would come before the Supreme Court for a decision as to whether Frank was denied a substantial right in not being present in the Courtroom when the verdict of "guilty" was returned.

Justice Lamar had before him deciding upon the Application the decision of the Georgia Supreme Court, which indicated that had the question of Frank's exclusion from the Courtroom been stated in the original Application for a new trial, instead of six months later, that a different opinion might have been rendered by the Court.

In the Diaz Case, appealed to the Supreme Court of the United States from the Philippine islands, it was shown that the Customs of the Country were different. Diaz had telegraphed to the Court from a point 250 miles distant waiving his right to be present.

He was not accused of a Capital Offense, as was Frank.

It became known in Atlanta Monday that a writ of Habeas Corpus has already been prepared to remove Frank from the Tower and bring him before Judge Ben Hill, probably Saturday, for the setting of execution date. This will be done as soon as the State Supreme Court remittitur is handed down to the

Superior Court.

So firmly had Frank, and his Attorneys expected Judge Lamar to certify to the writ of error, that his decision came as a great blow. The prisoner, however, received it with stoical calm, saying merely that he thought he deserved a chance.

"I don't know what will be done now," were his concluding words.

Besides the Appeal to other United States Supreme Court Justices, his next and final recourse lies in executive clemency.

So shocked were they at Justice Lamar's decision that the doomed man's Attorneys stated Monday that they had outlined no future Course, and would not act until Harry Alexander and Henry Peeples, in Washington, were heard from.
